

### **REMARKS**

This Amendment responds to the Office Action mailed July 6, 2006. Claims 1-13 remain pending in the application prior to this Amendment and stand rejected. New claims 14 and 15 have been added by this Amendment. Applicants respectfully request reconsideration in view of the following remarks.

#### **Claims Rejected Under 35 U.S.C. §103**

Claims 1-4, 6-11 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,568,008 to Siepmann et al. in view of U.S. Patent No. 6,361,117 to Tate. Claim 1 is the only independent claim of this rejected group and is directed to an articulating medical table, comprising, *inter alia*, "a seat frame defining a peripheral border and a central open area, and a layer of web material extending across said open area and secured to said seat frame." To establish a *prima facie* case of obviousness, there must be some suggestion or motivation to modify references or to combine reference teachings to arrive at the claimed invention; there must be a reasonable expectation of success; and the references must teach or suggest all of the claimed limitations. The mere fact that the elements of a claimed invention are known in the art is not, of itself, sufficient basis for an obviousness rejection. In re Katzab, 55 USPQ.2d 1313 (Fed. Cir. 2000); MPEP §2143.01. Rather, there must be some motivation, teaching or suggestion in the prior art to make the combination, either explicitly or implicitly. Id. "The fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie*

obviousness." Exparte Levengood, 28 USPQ.2d 1300 (BPAI 1993), MPEP §2143.01.

It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In re Fritch, 23 USPQ.2d 1780, 1783-84 (Fed. Cir. 1992).

Applicants respectfully traverse the rejection of claim 1 because Siepmann '008 does not teach or suggest each and every element of claim 1, and because there is no motivation to modify Siepmann '008 in view of Tate '117, as alleged by the Examiner. Specifically, the Examiner admits that Siepmann '008 fails to teach or suggest a seat section comprising a seat frame defining a peripheral border and a central open area, and a layer of web material extending across the open area and secured to the seat frame, as recited in claim 1. Rather, Siepmann '008 is directed to a medical examination table having a conventional seat configuration. (See Siepmann '008 at col. 3, lines 53-55.)

Tate '117 is directed to a bucket seat for use in construction machines or vehicles such as skid steer loaders, lawn care implements, and small construction equipment, having confined volumes. The object of Tate 117 is to provide a comfortable seat for use in such confined spaces. In contrast to the confined spaces of such construction machines, medical examination tables are generally quite plush and spacious to help patients feel at ease during a medical examination. (See Application at paragraph 0003.) Accordingly, such plush medical examination tables do not present the kind of confined space that would lead persons skilled in the art to modify the conventional seat of Siepmann '008 in view of Tate '117. Neither Siepmann '008 nor Tate '117, nor any

other reference of record, appreciates the need for a low profile seat on a medical examination table, nor the advantages that such a seat provides to facilitate the movement of patients onto and off of a medical examination table. In this case, the alleged motivation to combine the references is based on the presence of the claimed elements in the cited references. This hindsight analysis uses Applicants' own disclosure of the desirable features for a seat of a medical examination table to find those very same features in the prior art, and then combines the prior art on the basis that Applicants taught the desirability of the combination. The particular combination claimed by Applicants is not taught or suggested by the prior art references, and it is simply not enough that the individual elements of the claimed invention are known in the art. Because hindsight based reconstruction of a claimed invention is forbidden by current law, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claims 3-4, 6-11 and 13 each depend from independent claim 1, and are therefore in condition for allowance for at least the reasons discussed above for claim 1. Accordingly, Applicants respectfully request that the rejections of claims 3-4, 6-11 and 13 based on Siepmann '008 in view of Tate '117 be withdrawn.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Siepmann '008 and Tate '117, in further view of U.S. Patent No. 4,516,805 to Leeper et al. Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Siepmann '008 and Tate '117, in further view of U.S. Patent No. 6,880,189 to Welling et al. Claims 5 and 12 each depend from independent claim 1, and therefore include each and every feature recited in independent claim 1. Applicants respectfully traverse the

rejections of claims 5 and 12 because Siepmann '008 fails to teach or suggest each and every element recited in the claims, and there is no motivation to modify Siepmann '008 in view of Tate '117, as discussed above. The further combinations of Siepmann '008 and Tate '117 with Leeper '805 or Welling '189 fail to cure these deficiencies. For at least these reasons, Applicants respectfully request that the rejections of claims 5 and 12 be withdrawn.

### **New Claims**

New claims 14 and 15 have been added by this amendment and are directed to articulating medical tables. Claim 14 is similar to original claim 1, but recites that the seat frame defines a peripheral border and a central aperture therethrough, "said aperture sized to permit deflection of said web material therethrough upon loading of said seat section." Support for new claim 14 can be found in the Application at paragraph 19. Accordingly, Applicants assert that no new matter has been added by new claim 14. Claim 15 is similar to claim 1, but recites that the actuating mechanism is operable to adjust a height of the seat and back sections relative to the base. Support for new claim 15 can be found in the Application at paragraph 2 and with reference to the figures. Accordingly, no new matter has been added by claim 15.

Applicants further assert that new claims 14 and 15 are not taught or suggested by the references of record. Specifically, Tate '117 does not teach or suggest a seat frame having a central aperture therethrough and sized to permit deflection of web material, as recited in claim 14. Rather, Tate '117 uses support brackets 46, 50 to

elevate a web material 58 above the seat frame. Such a configuration results in an increased vertical height of the seat, which is contrary to the objectives of the claimed invention. Siepmann '008 also does not teach or suggest an actuating mechanism operable to adjust a height of the seat and back sections relative to the base. Rather, the seat and back sections are secured to the base at a fixed height. (See, e.g. FIGS. 1-4, 6 and 8 of Siepmann '008.) For at least these reasons, Applicants respectfully request early and favorable consideration of claims 14 and 15.

### **Conclusion**

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants respectfully believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any matter requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants do not believe that any fees are due as a result of this communication. However, if any fees are necessary to complete this communication, the Commissioner may consider this to be a request for such and charge any necessary fees to Deposit Account No. 23-3000.

Application No. 10/711,754  
Response to Office Action of July 6, 2006  
Response Dated October 3, 2006

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: /David W. Dorton/  
David W. Dorton, Reg. No. 51,625

2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202  
(513) 241-2324 (voice)  
(513) 241-6234 (facsimile)